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Report of the Disarmament Commission

General Assembly

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NOTE

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I. INTRODUCTION

1. At its forty-eighth session, the General Assembly adopted resolution 48/77 A of 16 December 1993, entitled "Report of the Disarmament Commission", which reads as follows:

> "Having considered the annual report of the Disarmament Commission, 1/
>
> "Recalling its resolutions 47/54 A of 9 December 1992 and 47/54 G of 8 April 1993,
>
> "Recalling also the proposal to include a new item in the agenda of the Disarmament Commission entitled 'General guidelines for non-proliferation, with special emphasis on weapons of mass destruction',
>
> "Considering the role that the Disarmament Commission has been called upon to play and the contribution that it should make in examining and submitting recommendations on various problems in the field of disarmament and in the promotion of the implementation of the relevant decisions of the tenth special session of the General Assembly,
>
> "1. Takes note of the annual report of the Disarmament Commission;
>
> "2. Commends the Disarmament Commission for its adoption by consensus of a set of guidelines and recommendations for regional approaches to disarmament within the context of global security, 2/ which were recommended to the General Assembly for consideration, pursuant to the adopted 'Ways and means to enhance the functioning of the Disarmament Commission'; 3/
>
> "3. Endorses the guidelines and recommendations for regional approaches to disarmament within the context of international security as adopted by the Disarmament Commission at its 1993 substantive session;
>
> "4. Notes with satisfaction that the Disarmament Commission has made significant progress in achieving agreement on guidelines and recommendations under its agenda item entitled 'The role of science and technology in the context of international security, disarmament and other related fields', which is to be concluded in 1994;
>
> "5. Notes the continuing consideration by the Disarmament Commission of its agenda item entitled 'Process of nuclear disarmament in the framework of international peace and security, with the objective of the elimination of nuclear weapons', which is to be concluded in 1994;
>
> "6. Reaffirms the importance of further enhancing the dialogue and cooperation among the First Committee, the Disarmament Commission and the Conference on Disarmament;
>
> "7. Recommends that the Conference on Disarmament consider, within its competence, the guidelines and recommendations for regional approaches to disarmament within the context of global security;
>
> "8. Reaffirms also the role of the Disarmament Commission as the specialized, deliberative body within the United Nations multilateral

disarmament machinery that allows for in-depth deliberations on specific disarmament issues, leading to the submission of concrete recommendations on those issues;

"9. Encourages the Disarmament Commission to continue to make every effort to enhance its working methods so as to enable it to give focused consideration to a limited number of priority issues in the field of disarmament, bearing in mind the decision it has taken to move its agenda towards a three-item phased approach;

"10. Requests the Disarmament Commission to continue its work in accordance with its mandate, as set forth in paragraph 118 of the Final Document of the Tenth Special Session of the General Assembly, 4/ and with paragraph 3 of resolution 37/78 H of 9 December 1982, and to that end to make every effort to achieve specific recommendations on the items on its agenda, taking into account the adopted 'Ways and means to enhance the functioning of the Disarmament Commission';

"11. Notes that the Disarmament Commission, at its 1993 organizational session, adopted the following items for consideration and conclusion at its 1994 substantive session:

"(1) Process of nuclear disarmament in the framework of international peace and security, with the objective of the elimination of nuclear weapons;

"(2) The role of science and technology in the context of international security, disarmament and other related fields;

"12. Notes also that the Disarmament Commission, at its 1993 organizational session, included in the agenda of its 1994 substantive session an item entitled 'International arms transfers, with particular reference to resolution 46/36 H of 6 December 1991';

"13. Also requests the Disarmament Commission to meet for a period not exceeding four weeks during 1994 and to submit a substantive report to the General Assembly at its forty-ninth session;

"14. Requests the Secretary-General to transmit to the Disarmament Commission the annual report of the Conference on Disarmament, together with all the official records of the forty-eighth session of the General Assembly relating to disarmament matters, and to render all assistance that the Commission may require for implementing the present resolution;

"15. Also requests the Secretary-General to ensure full provision to the Commission and its subsidiary bodies of interpretation and translation facilities in the official languages and to assign, as a matter of priority, all the necessary resources and services to that end;

"16. Decides to include in the provisional agenda of its forty-ninth session the item entitled 'Report of the Disarmament Commission'."

2. The Disarmament Commission met at United Nations Headquarters and held two meetings on 9 and 14 December 1993 (A/CN.10/PV.182 and 183), for its organizational session. During that session, the Commission considered questions related to the organization of work for its 1994 substantive session in accordance with the adopted "Ways and means to enhance the functioning of the

Disarmament Commission" (A/CN.10/137) and in the light of General Assembly resolution 48/77 A of 16 December 1993. The Commission took up the question of the election of its officers, taking into account the principle of rotation of the chairmanship among the geographic regions, and elected its Chairman and seven Vice-Chairmen as well as its Rapporteur. The Commission considered and agreed on the provisional agenda for the 1994 substantive session (see para. 6 below). The Commission decided to establish a committee of the whole and three working groups to deal with the three substantive items on the agenda and appointed the Chairmen of the Working Groups. The Commission further decided that its next substantive session would be held from 18 April to 9 May 1994.

3. At the organizational session, the Commission decided to conclude at its 1994 substantive session the items entitled "Process of nuclear disarmament in the framework of international peace and security, with the objective of the elimination of nuclear weapons" and "The role of science and technology in the context of international security, disarmament and other related fields".

II. ORGANIZATION AND WORK OF THE 1994 SUBSTANTIVE SESSION

4. The Disarmament Commission met at United Nations Headquarters from 18 April to 9 May 1994. In the course of its session, the Commission held seven plenary meetings (A/CN.10/PV.184-190) under the chairmanship of Ambassador René Valéry Mongbe (Benin). Mr. Lin Kuo-Chung, Senior Political Affairs Officer of the Centre for Disarmament Affairs, Department of Political Affairs, served as Secretary of the Disarmament Commission.

5. During the 1994 session, the Bureau of the Commission was constituted as follows:

Chairman: Ambassador René Valéry Mongbe (Benin)

Vice-Chairmen: Representatives of the following States:

Austria
Cuba
Jordan
Mauritius
Pakistan
Poland
Sweden

Rapporteur: Mr. José Manuel Ovalle (Chile)

6. At its 184th plenary meeting, on 18 April 1994, the Commission adopted its agenda, contained in document A/CN.10/L.34, as follows:

1. Opening of the session.

2. Adoption of the agenda.

3. Organization of work.

4. Process of nuclear disarmament in the framework of international peace and security, with the objective of the elimination of nuclear weapons.

5. The role of science and technology in the context of international security, disarmament and other related fields.

6. International arms transfers, with particular reference to General Assembly resolution 46/36 H of 6 December 1991.

7. Report of the Disarmament Commission to the General Assembly at its forty-ninth session.

8. Other business.

7. At the same meeting, the Commission approved its general programme of work for the session (A/CN.10/1994/CRP.1) and decided to allocate four meetings to a general exchange of views.

8. On 18, 19 and 20 April, the Disarmament Commission held a general exchange of views on all agenda items (A/CN.10/PV.184-187).

9. In accordance with the decision taken at its organizational session, the Disarmament Commission entrusted Working Group I with the mandate of dealing with agenda item 4, entitled "Process of nuclear disarmament in the framework of international peace and security, with the objective of the elimination of nuclear weapons". Working Group I met under the chairmanship of Mr. Volodymyr D. Khandogy (Ukraine) and held 11 meetings between 20 April and 6 May.

10. The Commission entrusted Working Group II with the mandate of dealing with agenda item 5, entitled "The role of science and technology in the context of international security, disarmament and other related fields". Working Group II met under the chairmanship of Ambassador Peggy Mason (Canada) and held 12 meetings between 20 April and 9 May.

11. The Commission entrusted Working Group III with the mandate of dealing with agenda item 6, entitled "International arms transfers, with particular reference to resolution 46/36 H of 6 December 1991". Working Group III met under the chairmanship of Ambassador Luis Fernando Jaramillo (Colombia) and held 6 meetings between 21 April and 4 May.

12. At its 190th plenary meeting, on 9 May, the Disarmament Commission considered the reports of Working Groups I, II and III on agenda items 4, 5 and 6, respectively. The reports of the subsidiary bodies of the Commission and the conclusions and recommendations contained therein are included in section IV of the present report.

13. In accordance with past practice of the Disarmament Commission, some non-governmental organizations attended the plenary meetings.

III. DOCUMENTATION

A. Documents submitted by the Secretary-General

14. Pursuant to paragraph 14 of General Assembly resolution 48/77 A, the Secretary-General, by a note dated 17 March 1994, transmitted to the Disarmament Commission the annual report of the Conference on Disarmament together with all the official records of the forty-eighth session of the General Assembly relating to disarmament matters (A/CN.10/183).

B. Other documents, including documents submitted by Member States

15. In the course of the Commission's work, the documents listed below, dealing with substantive questions, were submitted.

16. A letter was submitted by the Permanent Representative of Colombia to the United Nations addressed to the Secretary of the Disarmament Commission, containing a working paper on the subject of international arms transfers, with particular reference to resolution 46/36 H of 6 December 1991 (A/CN.10/184).

17. A working paper entitled "Process of nuclear disarmament in the framework of international peace and security, with the objective of the elimination of nuclear weapons" was prepared by the Chairman of Working Group I (A/CN.10/185).

18. A number of other working papers dealing with substantive questions were also submitted by Member States to the working groups, and are referred to in the reports.

IV. CONCLUSIONS AND RECOMMENDATIONS

19. At its 190th plenary meeting, on 9 May, the Disarmament Commission adopted by consensus the reports of its subsidiary bodies and the conclusions and recommendations contained therein regarding agenda items 4, 5 and 6. The Commission agreed to submit the texts of those reports, reproduced below, to the General Assembly.

20. At the same meeting, the Commission adopted, as a whole, its report to the General Assembly at its forty-ninth session.

21. The report of Working Group I on agenda item 4 reads as follows:

Report of Working Group I on agenda item 4

"1. The Disarmament Commission, at its 182nd meeting, on 9 December 1993, decided to establish Working Group I to deal with agenda item 4 regarding 'Process of nuclear disarmament in the framework of international peace and security, with the objective of the elimination of nuclear weapons'.

"2. In connection with its work, the following documents were presented to Working Group I:

"(a) Working paper submitted by Argentina (A/CN.10/148);

"(b) Working paper submitted by Australia (A/CN.10/157);

"(c) Working paper submitted by Pakistan (A/CN.10/158);

"(d) Working paper submitted by China (A/CN.10/166);

"(e) Letter dated 16 April 1992 from the Permanent Representative of South Africa to the United Nations addressed to the Secretary of the Disarmament Commission (A/CN.10/167);

"(f) Working paper submitted by Portugal on behalf of the European Community and its member States (A/CN.10/172);

"(g) Working paper submitted by Ireland (A/CN.10/173);

"(h) Working paper submitted by Australia (A/CN.10/178);

"(i) Working paper submitted by South Africa (A/CN.10/179);

"(j) Working paper submitted by the Russian Federation (A/CN.10/180);

"(k) Working paper submitted by the Chairman (A/CN.10/185);

"(l) Working paper submitted by Cuba (A/CN.10/1992/WG.II/WP.1);

"(m) Working paper submitted by India (A/CN.10/1992/WG.II/WP.2);

"(n) Working paper submitted by Egypt (A/CN.10/1992/WG.II/WP.3);

"(o) Working paper submitted by India (A/CN.10/1992/WG.II/WP.4);

"(p) Working paper submitted by India (A/CN.10/1992/WG.II/WP.5);

"(q) Chairman's paper (A/CN.10/1991/WG.II/CRP.1);

"(r) Chairman's paper (A/CN.10/1991/WG.II/CRP.2);

"(s) Conference room paper (A/CN.10/1992/WG.II/CRP.1);

"(t) Record of Decisions (A/CN.10/1992/WG.II/DEC.1);

"(u) Conference room paper (A/CN.10/1993/WG.I/CRP.1);

"(v) Conference room paper (A/CN.10/1993/WG.I/CRP.3);

"(w) Conference room paper (A/CN.10/1993/WG.I/CRP.4);

"(x) Conference room paper (A/CN.10/1993/WG.I/CRP.5);

"(y) Conference room paper (A/CN.10/1994/WG.I/CRP.1);

"(z) Conference room paper (A/CN.10/1994/WG.I/CRP.2);

"(aa) Conference room paper (A/CN.10/1994/WG.I/CRP.3);

"(bb) Conference room paper (A/CN.10/1994/WG.I/CRP.4);

"(cc) Conference room paper (A/CN.10/1994/WG.I/CRP.5);

"(dd) Conference room paper (A/CN.10/1994/WG.I/CRP.6).

"3. The Working Group met under the chairmanship of Mr. Volodymyr Khandogy, Chargé d'affaires a.i. (Ukraine) and held 11 meetings between 20 April and 6 May 1994. Mr. Timur Alasaniya of the Centre for Disarmament Affairs, Department of Political Affairs served as Secretary of the Working Group. The Chairman also conducted informal consultations during this period.

"4. At the beginning of the 1st meeting, on 20 April, the Chairman made an introductory statement and submitted the working paper contained in A/CN.10/1994/WG.I/CRP.1 and further issued as document A/CN.10/185.

"5. At the same meeting, the Working Group decided to take the Chairman's paper contained in A/CN.10/185 as a basis for discussion.

"6. In the course of the deliberation, the Chairman submitted updated versions of his original paper, which are contained in A/CN.10/1994/WG.I/CRP.1-6 and constitute his summarizing of the discussion.

"7. The debate on the Chairman's paper was constructive. The vital importance of nuclear disarmament in all its aspects in the framework of international peace and security was reaffirmed.

"8. Despite the efforts of the Working Group, it was not possible to achieve a consensus document on the subject before the Working Group.

"9. Accordingly, at its 11th meeting on 6 May, the Working Group decided to recommend that the item entitled 'Process of nuclear disarmament in the

framework of international peace and security, with the objective of the elimination of nuclear weapons' should be included in the agenda of the United Nations Disarmament Commission for conclusion at its 1995 session.

"10. At its 11th meeting on 6 May, the Working Group adopted by consensus the present report to the Disarmament Commission."

22. The report of Working Group II on agenda item 5 reads as follows:

Report of Working Group II on agenda item 5

"1. The Disarmament Commission, at its 182nd meeting, on 9 December 1993, decided to establish Working Group II to deal with agenda item 5, entitled 'The role of science and technology in the context of international security, disarmament and other related fields'.

"2. In connection with its work, Working Group II had before it the following documents:

"(a) Working paper submitted by Argentina and Brazil (A/CN.10/145);

"(b) Working paper submitted by India (A/CN.10/147);

"(c) Working paper submitted by China (A/CN.10/150);

"(d) Working paper submitted by the Netherlands on behalf of the European Community and its member States (A/CN.10/155);

"(e) Working paper submitted by Colombia (A/CN.10/156);

"(f) Working paper submitted by Austria (A/CN.10/159);

"(g) Working paper submitted by Canada (A/CN.10/163);

"(h) Working paper submitted by Portugal on behalf of the European Community and its member States (A/CN.10/165);

"(i) Working paper submitted by Colombia (A/CN.10/169);

"(j) Working paper submitted by Canada (A/CN.10/170);

"(k) Working paper submitted by Brazil (A/CN.10/171);

"(l) Working paper submitted by Cuba (A/CN.10/175);

"(m) Working paper submitted by Brazil and Canada (A/CN.10/176);

"(n) Working paper submitted by Australia (A/CN.10/177);

"(o) Clustered compilation of working papers provided to Working Group IV in 1991 and 1992 (A/CN.10/1992/WG.IV/CRP.1);

"(p) Discussion paper submitted by Canada (A/CN.10/1992/WG.IV/INF.1);

"(q) Working paper submitted by the Chairman of Working Group III as a basis for discussion (A/CN.10/1993/WG.III/CRP.1/Rev.5);

"(r) Chairman's working paper annexed to the report of the Disarmament Commission to the General Assembly at its forty-eighth session (A/48/42) submitted to the Working Group as a basis for discussion (A/CN.10/1994/WG.II/CRP.1);

"(s) Chairman's working papers (A/CN.10/1994/WG.II/CRP.2-10).

"3. The Working Group held 12 meetings between 20 April and 9 May 1994 under the Chairmanship of Ambassador Peggy Mason (Canada), who had conducted informal inter-sessional consultations prior to the session. Mr. Mohammad Sattar of the Centre for Disarmament Affairs, Department of Political Affairs, served as Secretary of the Working Group. Ms. Lucy Webster from the same Centre acted as Deputy Secretary. The Chairman of the Working Group also conducted informal consultations during the session.

"4. At its first meeting, on 20 April 1994, the Working Group decided to base its deliberation on the Chairman's working paper on draft guidelines and recommendations on the role of science and technology in the context of international security, disarmament and other related fields, which was annexed to the report of the Disarmament Commission to the General Assembly at its forty-eighth session (A/48/42, annex III).

"5. The Working Group focused its discussion primarily on those areas where Member States had been unable to formulate a consensus text. It began its work by reviewing the paragraphs with brackets contained in part III of the Chairman's working paper, namely, 'The transfer of high technology with military applications'. The Working Group then re-examined the other bracketed paragraphs of the remaining parts of the aforementioned working paper. On 6 May, the Working Group proceeded to a final consideration of the working paper as a whole.

"6. With reference to the document addressed by the Working Group as a basis for discussion during the session, it was not possible to reach a consensus on guidelines and recommendations on the role of science and technology in the context of international security, disarmament and other related fields.

"7. At its 12th meeting, on 9 May, the Working Group adopted by consensus its report to the Disarmament Commission on agenda item 5, entitled 'The role of science and technology in the context of international security, disarmament and other related fields'."

23. The report of Working Group III on agenda item 6 reads as follows:

Report of Working Group III on agenda item 6

"1. The Disarmament Commission, at its 182nd meeting, on 9 December 1993, decided to establish Working Group III to deal with agenda item 6 regarding 'International arms transfers, with particular reference to resolution 46/36 H of 6 December 1991'.

"2. In connection with its work, the following documents were presented to Working Group III:

"(a) Working paper on international arms transfers, with particular reference to resolution 46/36 H of 6 December 1991, submitted by Colombia (A/CN.10/184);

"(b) Conference room paper on guidelines for international arms transfers (a compilation of possible elements) (A/CN.10/1994/WG.III/CRP.1);

"(c) Chairman's working paper on guidelines for international arms transfers in the context of resolution 46/36 H (A/CN.10/1994/WG.III/CRP.2);

"(d) Chairman's working paper on guidelines for international arms transfers in the context of resolution 46/36 H (A/CN.10/1994/WG.III/CRP.3);

"(e) Informal working paper No. 1, submitted by Ireland;

"(f) Informal working paper No. 2, submitted by Canada;

"(g) Informal working paper No. 3, submitted by China;

"(h) Informal working paper No. 4, submitted by Greece (on behalf of member States of the European Union);

"(i) Informal working paper No. 5, submitted by India."

"3. The Working Group met under the chairmanship of Ambassador Luis Fernando Jaramillo (Colombia), and held 6 meetings between 21 April and 4 May 1994. Mr. Lin Kuo-Chung of the Centre for Disarmament Affairs, Department of Political Affairs, served as Secretary of the Working Group and Ms. Carolyn Cooper of the same Centre acted as Deputy Secretary.

"4. Working Group III, at the outset, held a preliminary exchange of views on the subject of international arms transfers, with particular reference to General Assembly resolution 46/36 H of 6 December 1991. In the course of the deliberations, divergent views were expressed concerning the scope of the subject under consideration. Many delegations favoured consideration only of illicit arms transfers; others felt that all aspects of the subject should be touched upon but that the focus should be on the illicit trade; and still others preferred a broader scope. Delegations also commented on other aspects of the item. With a view to facilitating a structured consideration of the question, the Chairman submitted a non-paper on a framework for a possible set of guidelines.

"5. A number of delegations submitted proposals concerning elements which could be incorporated into such guidelines, as contained in informal working papers Nos. 1-5.

"6. In order to facilitate the work of the Working Group, the Secretariat, at the request of the Chairman, prepared a compilation of possible elements for the guidelines based on the proposals of delegations, relevant General Assembly resolutions and other United Nations documents, as contained in document A/CN.10/1994/WG.III/CRP.1.

"7. Subsequently, the Chairman submitted a working paper entitled 'Guidelines for international arms transfers in the context of resolution 46/36 H', as contained in document A/CN.10/1994/WG.III/CRP.2. The working paper was later revised in the light of comments made by some delegations and reissued as document A/CN.10/1994/WG.III/CRP.3.

"8. With reference to the documents presented to the Working Group, as enumerated in paragraph 2 above, the Working Group decided to annex to the present report the Chairman's working paper (A/CN.10/1994/WG.III/CRP.3) as one element for future consideration, without prejudice to the position of any delegation (annex).

"9. At its 6th meeting, on 4 May 1994, the Working Group adopted by consensus its report on agenda item 6."

Notes

1/ Official Records of the General Assembly, Forty-eighth Session, Supplement No. 42 (A/48/42).

2/ Ibid., annex II.

3/ A/CN.10/137 of 27 April 1990.

4/ General Assembly resolution S-10/2.

ANNEX

Guidelines for international arms transfers in the context of General Assembly resolution 46/36 H of 6 December 1991

(Chairman's working paper)

I. INTRODUCTION

1. Arms transfers are a deeply entrenched phenomenon of contemporary international relations. This situation flows from the sovereign right of States to acquire arms for their defence, including arms from outside sources. Arms transfers therefore cannot be considered as necessarily destabilizing. However, the international transfer of conventional arms as well as the increasing illicit and covert arms trafficking, have in recent decades acquired a dimension and qualitative characteristics that give rise to serious and urgent concerns.

2. Arms transfers should be addressed in conjunction with the question of maintaining international peace and security, reducing international tension, enhancing confidence, and promoting disarmament as well as social and economic development. Restraint and greater openness can help in this respect and contribute to the promotion of international peace and security.

3. The problem of the illicit traffic in arms has a social and human component in addition to the technical, economic and political dimensions. The suffering of entire populations which are condemned by commercial interests to bear the devastating consequences of wars cannot be ignored. The victims are generally simple men, women and children from all classes and conditions. The humanitarian component of this trafficking should be taken into account. This is not an isolated phenomenon particular to a region of the world. On the contrary, the illicit traffic in arms increasingly takes on more universal connotations, more diverse and dangerous to the welfare of the international community.

4. The problem of illicit traffic in arms is common to many countries. Wherever there is violence, terrorism, subversion, drug trafficking, common and organized crime and other criminal actions, their link to illegal acquisition of arms has been demonstrated. It is evident that the relation of illicit arms trafficking with other outlawed phenomena puts to a test the capacity of States to offset them.

5. Legal, political and technical differences in internal control of armaments and their transfers contribute to the growing illicit market in arms. Accordingly, the harmonization of legislation and administrative procedures so as to permit the application, in all countries, of uniform standards of internal arms control and the regulating of export and imports is essential to the prevention of the illicit arms trade.

II. UNITED NATIONS BACKGROUND ON THE ILLICIT TRAFFIC IN ARMS

6. By its resolution 43/75 I of 7 December 1988, the General Assembly expressed its conviction that arms transfers in all their aspects deserve serious consideration by the international community, inter alia, because of (a) their potential effects in areas where tension and regional conflict

threaten international peace and security and national security; (b) their known and potential negative effects on the process of the peaceful social and economic development of all peoples; and (c) increasing illicit and covert arms trafficking.

7. Subsequently, pursuant to that resolution, the Secretary-General carried out an expert study on ways and means of promoting transparency in international transfers of conventional arms on a universal and non-discriminatory basis, taking into consideration the views of Member States and other relevant information, including information on the problem of illicit arms trade (A/46/301, annex). A number of the recommendations made by the study were taken up subsequently in General Assembly resolutions.

8. As stated in paragraphs 142 and 144 of the study, "For obvious reasons the promotion of transparency in illicit arms transfers is a contradiction in terms." However, "those measures of national and international control over armaments which are a requirement for transparency in licit arms transfers are also of central importance to the objective of eradicating the illicit arms trade".

9. By its resolution 46/36 H of 6 December 1991, entitled "International arms transfers", the General Assembly, inter alia, called upon States to give high priority to eradicating the illicit trade in weapons and military equipment, and to take action as recommended in the study submitted by the Secretary-General.

10. The item entitled "International arms transfers, with particular reference to resolution 46/36 H of 6 December 1991" was inscribed on the agenda of the 1994 substantive session of the Disarmament Commission for consideration.

11. The adoption by consensus of General Assembly resolution 46/36 H reflects the concern of the international community over the increasing illicit trafficking in arms. Either because of constitutional reasons or other limitations of a legal nature, or because of scarce resources available to combat the magnitude and operations of this trafficking, or because of the creativity of arms merchants, Governments find themselves impotent to deal with these problems on their own. This kind of trafficking represents one of the major problems for the authorities of many countries which attempt to free their territories from the criminal use of arms and the consequences it has upon peace and stability.

III. SCOPE

12. According to paragraph 1 of General Assembly resolution 43/75 I, all transfers of conventional weapons - whether licit or illicit - should be considered by the international community. Given the priority given to the illicit aspect of this issue, the Assembly, in paragraph 4 of its resolution 48/75 F, entitled "International arms transfers", requested the Disarmament Commission to include the question of international arms transfers, with particular reference to resolution 46/36 H, on the agenda of its substantive session in 1994.

13. In its resolution 46/36 H, the General Assembly calls upon all States to give high priority to eradicating the illicit trade in all kinds of weapons and military equipment; urges Member States to exercise control over their military equipment, their arms imports and exports to prevent them from getting into the hands of parties engaged in illicit arms trafficking; also urges Member States

to ensure that they have in place an adequate body of laws and administrative machinery for regulating and monitoring effectively their transfer of arms, to strengthen or adopt strict measures for their enforcement, and to cooperate at the international, regional and subregional levels to harmonize, where appropriate, relevant laws, regulations and administrative procedures as well as their enforcement measures, with the goal of eradicating the illicit arms trade.

14. In contrast to licit or government-to-government arms transfers, which should be addressed through an international code of conduct for conventional arms transfers, the objective in this case must be eradication through tighter controls.

15. There are three stages in the illicit arms trade that should be the focus of controls: the acquisition of arms by unauthorized persons; their export; and their delivery.

16. Prevention is then an essential factor in the strategy for the eradication of the illicit arms trade. Specific measures designed to achieve that end must therefore be devised and implemented. From that standpoint, two priority lines of action must be promoted:

(a) National measures to ensure effective control of the transfer, possession and carrying of arms;

(b) Measures of cooperation and coordination at the bilateral and multilateral levels which would help to reduce the opportunities for illegal arms transfers.

17. Since national legislation varies from country to country and, in practice, the borderline between licit and illicit arms transfers may not always be apparent, measures conducive to harmonizing laws and/or regulations and procedures, as well as the means of enforcing them, should be developed at the international level to ensure effective control over the possession and transfer of weapons.

18. The Working Group should consider measures to prevent arms transfers to non-governmental bodies, rather than the issue of government-to-government transfers which must have the specific agreement of both supplier and recipient Governments.

IV. DEFINITION

19. In view of the complexities of the subject, the expert study did not produce an all-encompassing definition of international arms transfers, which would, in practice, include transfers of military hardware, technical knowledge and services and foreign technical support.

20. The illicit arms trade is understood to cover that international trade in conventional arms which is contrary to the laws of States and/or international law. Under international law, arms trade can be circumscribed, inter alia, by the prohibition of interference in the internal affairs of a State, by international treaties, or by binding decisions adopted by the Security Council under Chapter VII of the Charter of the United Nations (see A/46/301, para. 136).

21. The term "illicit arms trade" can be defined as that which evades the control of national or international authorities.

V. PRINCIPLES

22. In their effort to combat illicit arms trade, States should bear in mind the following principles:

(a) Every State enjoys the legitimate right of self-defence as provided for by the Charter of the United Nations. The possession and use of arms must be solely in the exercise of this right, in fulfilment of the obligation enshrined in the Charter of the United Nations and in strict observance of the Five Principles of Peaceful Coexistence and other universally recognized international norms;

(b) There is a responsibility on all States, whether producer or importer, to ensure that they limit themselves to the strict minimum level of armaments necessary for their legitimate self-defence requirements, including their ability to participate in United Nations peace-keeping activities;

(c) Both supplier and recipient States have special responsibilities to avoid excessive or destabilizing arms build-ups. In this context, Governments should exercise restraint in their arms production and procurement as well as their transfers;

(d) States must have a monopoly of and exercise absolute control over their armaments, their production, possession, exports and imports. Strict monitoring and control should be exercised over military equipment used by military and police forces as well as over licensed arms for civilian use, in order to prevent them from being sold or transferred illegally;

(e) The arms permitted for civilian use, whether imported or of domestic manufacture, should be subject to controls at all points in the chain, from production and/or acquisition up to the time they are sold to an individual. From then on they should remain subject to monitoring and control by an administrative entity which in carrying out its functions would prevent arms from being used in criminal activities or from being exported illegally to other nations;

(f) International arms transfers should not be driven by economic or commercial considerations. Arms should be exported or imported only after careful evaluation of the political situation both within and outside the area in question. The transfer of arms and military equipment should not give rise to social disturbances in any State, nor should they cause, lead to the escalation of or prolong conflicts between States;

(g) Recognizing the negative effects of illicit arms transfers on the security and stability of many States, steps should be taken towards effective control measures to prevent illicit arms transfers. International cooperation is essential in this respect;

(h) All States must recognize the need to preserve regional peace and security, and to avoid introducing or exacerbating destabilizing factors in any nation. There is a special responsibility on arms-producing States to ensure that the quantity and quality of their arms exports do not contribute to instability and conflict in other countries or regions or to the illicit trade

in arms. In this respect, States with the most advanced defence industries and largest exports of arms have special responsibilities;

(i) Account should be taken of transfers of military equipment, components and parts for the production and assembly of arms, as well as of technology, services and equipment modified for military use. The supplier State must ensure that the equipment will be used only for the legitimate self-defence needs of the receiving State. The supplier State must also take steps to ensure that the equipment will not be diverted to other uses or destinations, different to that agreed upon by the receiving State;

(j) States should exercise the necessary administrative controls to prevent the export of arms and military equipment whose end-use or end-user does not have the explicit and verified authorization of the governmental authorities of the recipient country. The receiving State must ensure that imported arms are covered by a certified licence of the authorities in the providing State. In both cases, the involvement of agents or intermediaries over whom the authorities cannot exercise absolute control should be avoided;

(k) International arms transfers should not be used as a means to interfere in the internal affairs of other States. No State should transfer arms to any area, organization or individual of another sovereign State. Arms transfers should always have the agreement of the receiving State;

(l) The issue of international arms transfers and illicit arms trafficking should be dealt with in conjunction with efforts aimed at easing international tensions, resolving regional conflicts, preventing arms races and achieving disarmament under effective international control.

VI. WAYS AND MEANS

A. National

23. States should ensure that they have an adequate body of national laws and/or regulations and administrative procedures to ensure effective control of their armaments and of the exports and imports of arms. It is fundamentally a question of maintaining effective, comprehensive and continuous control over weapons to prevent their falling into the hands of unauthorized persons or parties engaged in illicit arms trade.

24. States should take a close look at their national arms control legislation and procedures and, if necessary, strengthen them in order to ensure their effectiveness and practicability in preventing the illegal possession and carrying of arms in their territory that might be conducive to arms smuggling to other nations.

25. States should maintain an effective system of export and import licences, and delivery and end-use/end-user certificates or equivalent mechanisms and intensify their efforts against corruption and bribery related to the transfers of arms.

26. States should provide for adequate numbers of customs officials appropriately trained to enforce the necessary controls over the export and import of arms.

27. The State should define which arms are permitted by law for civilian use and which may be used or possessed by the military and police forces on the basis of the calibre of the arms, their system of operation and their end use.

28. States must consider and apply at the national level the recommendations that emanated from the International Symposium on Firearms and Explosives held at Lyons, France, in September 1992 under the auspices of Interpol.

29. The receiving State involved in an arms transfer must undertake not to re-export the arms or allow them to enter the black market.

30. States must exercise effective control over the trade in and transport, security and use of explosives - increasingly used for the commission of crimes by terrorists.

B. International

31. The harmonization of legislation and administrative procedures so as to permit the application in all countries of uniform standards for internal arms control and regulating the export and import of arms is an essential measure for the prevention of the illicit arms trade.

32. Government-to-government agreements covering arms transfers can help to reduce the possibility of diversion of arms to unauthorized destination. A requirement by the exporter for import licences or end-use/end-user certificates is an important measure to prevent diversion.

33. States should cooperate with other States at the bilateral and multilateral levels to provide customs information on trafficking in and detection of illicit arms, and coordinate intelligence efforts as and when possible and necessary. In this context, States should endeavour to ensure effective control of borders with a view to preventing illicit arms.

34. There is a need for all States to comply strictly with sanctions and embargoes imposed by the Security Council.

35. It is recommended that States take a closer look at international private arms dealers. In the present situation it is both possible and necessary to impose stricter regulations on such activities. a/

VII. INSTITUTIONAL ARRANGEMENTS FOR ENHANCING INTERNATIONAL COOPERATION TO PREVENT ILLICIT ARMS TRANSFERS

A. Role of the United Nations

36. The United Nations has a special responsibility in the field of international arms transfers and the eradication of illicit arms trafficking in accordance with its overall purposes and principles. No country can, by itself, eradicate the problem of the illicit arms trade or effectively control its own armaments without regard for the impact of the growing supply of arms on the black market and the internal and external factors that determine demand. The cooperation of the international community, represented by the United Nations, is therefore necessary.

37. The United Nations was given, under paragraph 8 of General Assembly resolution 46/36 H, the responsibility for assisting in the holding of meetings and seminars at the national, regional and international levels, for promoting efforts to eradicate the illicit traffic in arms, and for providing advisory assistance to Member States, when so requested, on the recommended measures for enforcement of relevant rules and administrative procedures, including the training of customs and other officials, so that States could coordinate their efforts and thereby benefit on a continuing basis from the knowledge and experience of other States.

38. Transparency measures concerning arms transfers are not in themselves measures of limitation or restriction, but they can in several ways promote and facilitate the introduction of unilateral or multilateral measures of restraint as well as help in the detection of arms transferred illegally.

B. Other institutional arrangements

39. The levels of communication with regard to the illicit arms trade should be expanded to include exchanges of information which would permit institutions engaged in the control, tracking and seizure of arms, in all countries to make full-scale efforts in a number of areas for eradicating the illicit arms trade.

40. At the world level, a computerized system should be established to record those arms which have disappeared or been stolen so that if any attempt is made to register or sell them the system would immediately identify them and the persons involved could be tracked down and penalized and a more serious criminal act could perhaps be prevented.

Notes

a/ See report of the Secretary-General entitled "New dimensions of arms regulation and disarmament in the post-cold war era" (A/C.1/47/7), para. 31.